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7
8 **BEFORE THE**
9 **BOARD OF PODIATRIC MEDICINE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke
13 Probation Against,

14 RANDOLPH W. NORDYKE, D.P.M.

15 1199 Pacific Highway, #2903
16 San Diego, CA 92101

17 Podiatric Medicine Certificate No. E 4245,

18 Respondent.

Case No. 500-2015-000172

19 **DEFAULT DECISION**
20 **AND ORDER**

[Gov. Code, §11520]

21 FINDINGS OF FACT

22 1. On March 27, 2015, Complainant Jason S. Campbell, J.D., in his official capacity as
23 the Executive Officer of the Board of Podiatric Medicine, filed a Petition to Revoke Probation in
24 case number 500-2015-000172 against Randolph W. Nordyke, D.P.M. ("Respondent") before the
25 Board of Podiatric Medicine. A copy of the Petition to Revoke Probation, the related documents,
26 and Declaration of Service are attached as **Exhibit 1**, and are incorporated herein by reference.

27 2. On December 14, 1999, the Board of Podiatric Medicine ("Board") issued Podiatric
28 Medicine Certificate number E 4245 to Respondent. That license was in full force and effect at
all times relevant to the charges brought herein and will expire on October 31, 2015, unless
renewed. A copy of Respondent's Certificate of Licensure setting forth his address of record and
licensing history is attached as **Exhibit 2**.

1 3. On March 27, 2015, Ian K. McGlone, an employee of the Board, served by Certified
2 Mail a copy of the Petition to Revoke Probation, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to
4 Respondent's address of record with the Board, which was and is 1199 Pacific Highway, #2903,
5 San Diego, CA 92101. [Exhibit 1]

6 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
7 provisions of Government Code section 11505, subdivision (c).

8 5. On or about April 30, 2015, the aforementioned documents were returned by the U.S.
9 Postal Service marked "Unclaimed." A copy of the envelope returned by the post office is
10 attached as **Exhibit 3**, and is incorporated herein by reference.

11 6. Government Code section 11506 states, in pertinent part:

12 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
15 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
18 Petition to Revoke Probation No. 500-2015-000172.

19 8. California Government Code section 11520 states, in pertinent part:

20 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
21 agency may take action based upon the respondent's express admissions or upon other evidence
22 and affidavits may be used as evidence without any notice to respondent."

23 9. In a disciplinary action entitled *In the Matter of Accusation Against Randolph*
24 *Nordyke*, Case No. 1B-2008-192098, the Board issued a decision and made it effective on April
25 8, 2011, in which Respondent's Certificate was revoked. However, the revocation was stayed
26 and Respondent's license was placed on probation for a period of four (4), years with certain
27 terms and conditions. A copy of that decision is attached as Exhibit A to the Petition to Revoke
28 Probation and is incorporated by reference.

1 10. Respondent subjected his Podiatric Certificate No. E4245 to disciplinary action by
2 reason of the following:

3 FIRST CAUSE TO REVOKE PROBATION

4 (Violation of Probation – Condition 9)

5 11. At all times after the effective date of Respondent’s probation, Condition 9 stated:

6 “In the event Respondent resides in the state of California and for any reason Respondent
7 stops practicing podiatric medicine in California, Respondent shall notify the Board or its
8 designee in writing within 30 calendar days prior to the dates of non-practice and return to
9 practice. Any period of non-practice within California, as defined in this condition, will not apply
10 to the reduction of the probationary term and does not relieve Respondent of the responsibility to
11 comply with the terms and conditions of probation. Non-practice is defined as any period of time
12 exceeding thirty calendar days in which Respondent is not engaging in any activities defined in
13 section 2472 of the Business and Professions Code. All time spent in an intensive training
14 program which has been approved by the Board or its designee shall not be considered time spent
15 in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered
16 suspension or in compliance with any other condition of probation, shall not be considered a
17 period of non-practice. Respondent’s license shall be automatically cancelled if Respondent
18 resides in California and for a total of two (2) years, fails to engage in California in any of the
19 activities described in Business and Professions Code section 2472.”

20 12. Respondent’s probation is subject to revocation because he failed to comply with
21 Probation Condition 9; referenced above, more specifically, on or about September 2012,
22 Respondent reported to the Board that he sold his practice and indicated he was “retired and not
23 practicing since then.”

24
25 SECOND CAUSE TO REVOKE PROBATION

26 (Violation of Probation – Condition 10)

27 13. At all times after the effective date of Respondent’s probation, Condition 10 stated:
28

“ Respondent shall comply with all financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent’s certificate will be fully restored.”

14. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 10, referenced above; more specifically, on or about November 2014, Respondent reported to the Board that he can no longer pay the balance of the probation monitoring costs in the amount of \$12,884.85. Respondent is now less than 60 days from his estimated probation completion date.

15. **Exhibit 4** contains a Certification of Costs in the amount of \$520.00 for the investigation and enforcement of the case. Based on the Certification, the Board finds that the cost amount is reasonable.

16. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits 1, 2, 3, and 4, finds that the allegations in Petition to Revoke Probation No. 500-2015-000172 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Randolph W. Nordyke, D.P.M. has subjected his Podiatric Medicine Certificate No. E 4245 to discipline.

2. A copy of the Petition to Revoke Probation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Podiatric Medicine is authorized to revoke Respondent's Podiatric Medicine Certificate based upon the following violations alleged in the Petition to Revoke Probation, to wit, violation of Conditions 9 and 10 of Respondent's probation.

1 ORDER

2 IT IS SO ORDERED that Podiatric Medicine Certificate No. E 4245, heretofore issued to
3 Respondent Randolph W. Nordyke, D.P.M., is revoked.

4 1. Respondent is ordered to reimburse the Board of Podiatric Medicine the amount of
5 \$520.00 for its investigative and enforcement costs. The filing of bankruptcy by Respondent
6 shall not relieve Respondent of his responsibility to reimburse the Board for its costs.
7 Respondent's Podiatric Medicine Certificate No. E 4245 may not be renewed or reinstated unless
8 all costs ordered under Business and Professions Code section 3753.5 have been paid.

9 2. Respondent is further ordered to reimburse the Board of Podiatric Medicine the
10 probation monitoring costs in the amount of \$12,884.85, and the sum of \$520.00 for the costs of
11 enforcement of this matter, for a total sum of \$13,404.85.

12 3. Pursuant to Government Code section 11520, subdivision (c), Respondent may serve
13 a written motion requesting that the Decision be vacated and stating the grounds relied on within
14 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
15 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

16 This Decision shall become effective on October 9, 2015.

17 **IT IS SO ORDERED** September 11, 2015

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20 
21 FOR THE BOARD OF PODIATRIC MEDICINE
22 DEPARTMENT OF CONSUMER AFFAIRS

23 Kristina M. Dixon, MBA, President
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 27, 20 15
BY Jan K. McGlone ANALYST

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8
9 **BEFORE THE**
BOARD OF PODIATRIC MEDICINE
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke
12 Probation Against:

Case No. 500-2015-000172

13 RANDOLPH NORDYKE, D.P.M.

14 1199 Pacific Coast Highway, #2903
15 San Diego, California 92101

PETITION TO REVOKE PROBATION

16 Podiatric Medicine Certificate Number E4245,
17 Respondent.

18 Complainant alleges:

19 PARTIES

20 1. The Complainant, Jason S. Campbell, J.D., brings this Petition to Revoke Probation
21 solely in his official capacity as the Executive Officer of the California Board of Podiatric
22 Medicine ("Board").

23 2. On December 14, 1999, the Board issued Podiatric Medicine Certificate No. E4245
24 to Randolph Nordyke ("Respondent"). That license was in full force and effect at all times
25 relevant to the charges brought herein and will expire on October 31, 2015, unless renewed.

26 3. In a prior disciplinary action entitled *In the Matter of Accusation Against Randolph*
27 *Nordyke*, Case No. 1B-2008-192098, the Board issued a decision and made it effective on April
28

1 8, 2011, in which Respondent's certificate was revoked. However, the revocation was stayed and
2 Respondent's license was placed on probation for a period of four years upon certain terms and
3 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board under the authority
6 of the following provisions of the California Business and Professions Code ("Code").

7 5. Section 2222 of the Code states:

8 " The California Board of Podiatric Medicine shall enforce and administer this article as to
9 doctors of podiatric medicine. Any acts of unprofessional conduct or other violations
10 proscribed by this chapter are applicable to licensed doctors of podiatric medicine and
11 wherever the Medical Quality Hearing Panel established under Section 11371 of the
12 Government Code is vested with the authority to enforce and carry out this chapter as to
13 licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that
14 same authority as to licensed doctors of podiatric medicine.

15 The California Board of Podiatric Medicine may order the denial of an application or
16 issue a certificate subject to conditions as set forth in Section 2221, or order the
17 revocation, suspension, or other restriction of, or the modification of that penalty, and the
18 reinstatement of any certificate of a doctor of podiatric medicine within its authority.

19 B. Section 2497 of the Code states:

20 "(a) The board may order the denial of an application for, or the suspension of, or the
21 revocation of, or the imposition of probationary conditions upon, a certificate to
22 practice podiatric medicine for any of the causes set forth in Article 12 (commencing
23 with Section 2220) in accordance with Section 2222.

24 "(b) The board may hear all matters, including but not limited to, any contested
25 case or may assign any such matters to an administrative law judge. The proceedings
26 shall be held in accordance with Section 2230. If a contested case is heard by the
27 board itself, the administrative law judge who presided at the hearing shall be present
28 during the board's consideration of the case and shall assist and advise the board."

1 FIRST CAUSE TO REVOKE PROBATION

2 (Violation of Probation: Condition 9)

3 6. At all times after the effective date of Respondent's probation, Condition 9 stated:

4 "In the event Respondent resides in the state of California and for any reason Respondent
5 stops practicing podiatric medicine in California, Respondent shall notify the Board or its
6 designee in writing within 30 calendar days prior to the dates of non-practice and return to
7 practice. Any period of non-practice within California, as defined in this condition, will not apply
8 to the reduction of the probationary term and does not relieve Respondent of the responsibility to
9 comply with the terms and conditions of probation. Non-practice is defined as any period of time
10 exceeding thirty calendar days in which Respondent is not engaging in any activities defined in
11 section 2472 of the Business and Professions Code. All time spent in an intensive training
12 program which has been approved by the Board or its designee shall not be considered time spent
13 in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered
14 suspension or in compliance with any other condition of probation, shall not be considered a
15 period of non-practice. Respondent's license shall be automatically cancelled if Respondent
16 resides in California and for a total of two (2) years, fails to engage in California in any of the
17 activities described in Business and Professions Code section 2472."

18 7. Respondent's probation is subject to revocation because he failed to comply with
19 Probation Condition 9, more specifically, in on or about September 2012, Respondent reported to
20 the Board that he sold his practice and indicated he was "retired and not practicing since then."

21 SECOND CAUSE TO REVOKE PROBATION

22 (Violation of Probation: Condition 10)

23 8. At all times after the effective date of Respondent's probation, Condition 10 stated:

24 "Respondent shall comply with all financial obligations (e.g., cost recovery, restitution,
25 probation costs) not later than 120 calendar days prior to the completion of probation. Upon
26 successful completion of probation, Respondent's certificate will be fully restored."

27 9. Respondent's probation is subject to revocation because he failed to comply with
28 Probation Condition 10, more specifically, that on or about November 2014, Respondent

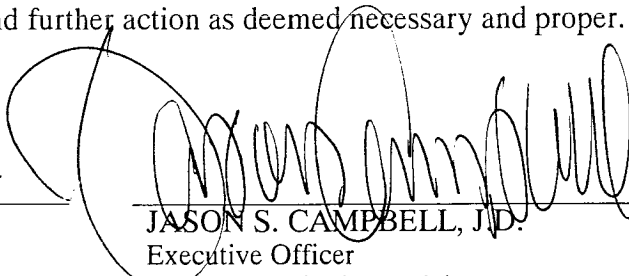
1 reported to the Board that he can no longer pay the balance of the probation monitoring costs in
2 the amount of \$12,884.85. Respondent is now less than 60 days from his estimated probation
3 completion date.

4 PRAYER

5 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board of Podiatric Medicine issue a decision:

- 7 1. Revoking the probation that was granted by the Board in Case No. 1B-2008-192098
8 and imposing the disciplinary order that was stayed, thereby revoking Podiatric Medicine
9 Certificate No. E4245 issued to Respondent;
- 10 2. Revoking or suspending his Podiatric Medicine Certificate; and
- 11 3. Taking such other and further action as deemed necessary and proper.

12
13 DATED: March 27, 2015

14 
15 JASON S. CAMPBELL, J.D.
16 Executive Officer
17 Board of Podiatric Medicine
18 Department of Consumer Affairs
19 State of California

20 *Complainant*

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Exhibit A
DECISION AND ORDER
BOARD OF PODIATRIC MEDICINE
Case No. 500-2015-000172

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation

Against:

RANDOLPH NORDYKE, D.P.M.

Doctor of Podiatric Medicine

License No. E 4245

Respondent.

File No. 1B-2008-192098


DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Board of Podiatric Medicine of the Department of Consumer Affairs, State of California as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on April 8, 2011.

DATED March 9, 2011

BOARD OF PODIATRIC MEDICINE



Karen L. Wrubel, D.P.M., President

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9 **BEFORE THE**
BOARD OF PODIATRIC MEDICINE
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
Against:

Case No. 1B-2008-192098

13 **RANDOLPH NORDYKE, D.P.M.**

OAH No. 2010020525

14 4080 Loma Vista Road, Suite D
15 Ventura, California 93003

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Podiatric Medicine Certificate Number E4245,
17 Respondent.
18

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. James Rathlesberger (Complainant) is the Executive Officer of the California Board
23 of Podiatric Medicine. He brought this action solely in his official capacity and is represented in
24 this matter by Kamala D. Harris, Attorney General of the State of California, by Abraham M.
25 Levy, Deputy Attorney General.

26 2. Respondent RANDOLPH NORDYKE, D.P.M. (Respondent) is represented in this
27 proceeding by attorney C. Keith Greer, Esq., whose address is 16787 Bernardo Center Drive,
28 Suite 14 San Diego, CA 92128

3. On or about December 14, 1999, the Board issued Podiatric Medicine Certificate Number E4245 to Randolph Nordyke ("Respondent"). The license is current, valid and will expire on October 31, 2011, unless renewed.

JURISDICTION

4. First Amended Accusation No. 1B-2008-192098 was filed before the Board of Podiatric Medicine (Board), Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on April 28, 2010. Respondent had timely filed his Notice of Defense contesting the allegations contained in Accusation No. 1B-2008-192098. A copy of First Amended Accusation No. 1B-2008-192098 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 1B-2008-192098. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. For the purpose of resolving the allegations in First Amended Accusation No. 1B-
3 2008-192098 without the expense and uncertainty of further proceedings, Respondent agrees that,
4 at a hearing, Complainant could present a *prima facie* case establishing the factual basis for each
5 of the allegations contained therein. Respondent hereby gives up his right to contest those
6 charges.

7 9. Respondent understands and agrees that the charges and allegations contained in First
8 Amended Accusation No. 1B-2008-192098, if proven at a hearing, constitute cause for imposing
9 discipline upon his Podiatric Medicine Certificate Number E4245. Respondent agrees that his
10 Certificate is subject to such discipline and agrees to be bound by the Board's imposition of same
11 as set forth in the Disciplinary Order below.

12 10. Respondent further agrees that if he ever petitions for early termination or
13 modification of probation, or reinstatement of his license, or if he ever petitions for revocation of
14 probation, all of the charges and allegations contained in the First Amended Accusation identified
15 above shall be deemed true, correct and fully admitted by Respondent for purposes of that
16 proceeding or any other licensing proceeding involving respondent in the State of California or
17 elsewhere.

18 RESERVATION

19 11. The admissions made by Respondent herein are only for the purposes of this
20 proceeding, or any other proceedings in which the Board of Podiatric Medicine or other
21 professional licensing agency is involved, and shall not be admissible in any other criminal or
22 civil proceeding.

23 CONTINGENCY

24 12. This stipulation shall be subject to approval by the Board of Podiatric Medicine.
25 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
26 Podiatric Medicine may communicate directly with the Board regarding this stipulation and
27 settlement, without notice to or participation by Respondent or his counsel. By signing the
28 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek

1 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
2 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
3 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
4 action between the parties, and the Board shall not be disqualified from further action by having
5 considered this matter.

6 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
7 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
8 effect as the originals.

9 14. In consideration of the foregoing admissions and stipulations, the parties agree that
10 the Board may, without further notice or formal proceeding, issue and enter the following
11 Disciplinary Order:

12 **DISCIPLINARY ORDER**

13 IT IS HEREBY ORDERED that Podiatric Medicine Certificate Number E4245 issued to
14 Randolph Nordyke (Respondent) is revoked. However, the revocation is stayed and Respondent
15 is placed on probation for four (4) years on the following terms and conditions.

16 1. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the
17 effective date of this decision, respondent shall enroll in a course in medical record keeping, at
18 respondent's expense, approved in advance by the Board or its designee. Failure to successfully
19 complete the course during the first 6 months of probation is a violation of probation. A medical
20 record keeping course taken after the acts that gave rise to the charges in the First Amended
21 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
22 or its designee, be accepted towards the fulfillment of this condition if the course would have
23 been approved by the Board or its designee had the course been taken after the effective date of
24 this Decision. Respondent shall submit a certification of successful completion to the Board or its
25 designee not later than 15 calendar days after successfully completing the course, or not later than
26 15 calendar days after the effective date of the Decision, whichever is later.

27 2. NOTIFICATION Prior to engaging in the practice of medicine the respondent
28 shall provide a true copy of the Decision(s) and First Amended Accusation(s) to the Chief of Staff

1 or the Chief Executive Officer at every hospital where privileges or membership are extended to
2 respondent, at any other facility where respondent engages in the practice of podiatric medicine,
3 including all physician and locum tenens registries or other similar agencies, and to the Chief
4 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
5 respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
6 calendar days. This condition shall apply to any change(s) in hospitals, other facilities or
7 insurance carrier.

8 3. PHYSICIAN ASSISTANTS Prior to receiving assistance from a physician
9 assistant, respondent must notify the supervising physician of the terms and conditions of his/her
10 probation.

11 4. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all
12 rules governing the practice of podiatric medicine in California and remain in full compliance
13 with any court ordered criminal probation, payments, and other orders.

14 5. QUARTERLY DECLARATIONS Respondent shall submit quarterly
15 declarations under penalty of perjury on forms provided by the Board, stating whether there has
16 been compliance with all the conditions of probation. Respondent shall submit quarterly
17 declarations not later than 10 calendar days after the end of the preceding quarter.

18 6. PROBATION UNIT COMPLIANCE Respondent shall comply with the Board's
19 probation unit. Respondent shall, at all times, keep the Board informed of respondent's business
20 and residence addresses. Changes of such addresses shall be immediately communicated in
21 writing to the Board or its designee. Under no circumstances shall a post office box serve as an
22 address of record, except as allowed by Business and Professions Code section 2021(b).
23 Respondent shall not engage in the practice of podiatric medicine in respondent's place of
24 residence. Respondent shall, maintain a current and renewed California doctor of podiatric
25 medicine's license. Respondent shall immediately inform the Board or its designee, in writing, of
26 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
27 more than thirty (30) calendar days.

28 ///

1 7. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall be
2 available in person for interviews either at respondent's place of business or at the probation unit
3 office, with the Board or its designee upon request at various intervals and either with or without
4 notice throughout the term of probation.

5 8. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent should
6 leave the State of California to reside or to practice, respondent shall notify the Board or its
7 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is
8 defined as any period of time exceeding thirty calendar days in which respondent is not engaging
9 in any activities defined in section 2472 of the Business and Professions Code. All time spent in
10 an intensive training program outside the State of California which has been approved by the
11 Board or its designee shall be considered as time spent in the practice of medicine within the
12 State. A Board-ordered suspension of practice shall not be considered as a period of non-practice.
13 Periods of temporary or permanent residence or practice outside, will not apply to the reduction
14 of the probationary term Periods of temporary or permanent residence or practice outside
15 California will relieve respondent of the responsibility to comply with the probationary terms and
16 conditions with the exception of this condition and the following terms and conditions of
17 probation: Obey All Law; Probation Unit Compliance; and Cost Recovery. Respondent's license
18 shall be automatically cancelled if respondent's periods of temporary or permanent residence or
19 practice outside California totals two years. However, respondent's license shall not be cancelled
20 as long as respondent is residing and practicing podiatric medicine in another state of the United
21 States and is on active probation with the medical licensing authority of that state, in which case
22 the two year period shall begin on the date probation is completed or terminated in that state.

23 9. FAILURE TO PRACTICE PODIATRIC MEDICINE – CALIFORNIA
24 RESIDENT In the event the respondent resides in the State of California and for any reason
25 respondent stops practicing podiatric medicine in California, respondent shall notify the Board or
26 its designee in writing within 30 calendar days prior to the dates of nonpractice and return to
27 practice. Any period of non-practice within California, as defined in this condition, will not apply
28 to the reduction of the probationary term and does not relieve respondent of the responsibility to

1 comply with the terms and conditions of probation. Non-practice is defined as any period of time
2 exceeding thirty calendar days in which respondent is not engaging in any activities defined in
3 section 2472 of the Business and Professions Code. All time spent in an intensive training
4 program which has been approved by the Board or its designee shall be considered time spent in
5 the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered
6 suspension or in compliance with any other condition of probation, shall not be considered a
7 period of non-practice. Respondent's license shall be automatically cancelled if respondent
8 resides in California and for a total of two years, fails to engage in California in any of the
9 activities described in Business and Professions Code section 2472.

10 10. COMPLETION OF PROBATION Respondent shall comply with all financial
11 obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior
12 to the completion of probation. Upon successful completion of probation, respondent's certificate
13 will be fully restored.

14 11. VIOLATION OF PROBATION Failure to fully comply with any term or
15 condition of probation is a violation of probation. If respondent violates probation in any respect,
16 the Board, after giving respondent notice and the opportunity to be heard, may revoke probation
17 and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
18 Probation, or an Interim Suspension Order is filed against respondent during probation, the Board
19 shall have continuing jurisdiction until the matter is final, and the period of probation shall be
20 extended until the matter is final.

21 12. COST RECOVERY Within 90 calendar days from the effective date of the
22 Decision or other period agreed to by the Board or its designee, respondent shall reimburse the
23 Board the amount of \$5000.00 for its investigative and prosecution costs. The filing of
24 bankruptcy or period of non-practice by respondent shall not relieve the respondent of his/her
25 obligation to reimburse the Board for its costs. This amount shall be paid in quarterly increments
26 within 48 months of this decision.

27 13. LICENSE SURRENDER Following the effective date of this Decision, if
28 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the

1 terms and conditions of probation, respondent may request the voluntary surrender of
2 respondent's license. The Board reserves the right to evaluate the respondent's request and to
3 exercise its discretion whether to grant the request, or to take any other action deemed appropriate
4 and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent
5 shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its
6 designee and respondent shall no longer practice podiatric medicine. Respondent will no longer
7 be subject to the terms and conditions of probation and the surrender of respondent's license shall
8 be deemed disciplinary action. If respondent re-applies for a podiatric medical license, the
9 application shall be treated as a petition for reinstatement of a revoked certificate.

10 14. PROBATION MONITORING COSTS Respondent shall pay the costs associated
11 with probation monitoring each and every year of probation, as designated by the Board, which
12 may be adjusted on an annual basis. Such costs shall be payable to the Board of Podiatric
13 Medicine and delivered to the Board or its designee within 60 days after the start of the new fiscal
14 year. Failure to pay costs within 30 calendar days of this date is a violation of probation.

15 15. NOTICE TO EMPLOYEES Respondent shall, upon or before the effective date
16 of this Decision, post or circulate a notice which actually recites the offenses for which
17 respondent has been disciplined and the terms and conditions of probation, to all employees
18 involved in his/her practice. Within fifteen (15) days of the effective date of this Decision,
19 respondent shall cause his/her employees to report to the BPM in writing, acknowledging the
20 employees have read the Accusation and Decision in the case and understand respondent's terms
21 and conditions of probation.

22 16. CHANGES OF EMPLOYMENT Respondent shall notify the BPM in writing,
23 through the assigned probation officer, of any and all changes of employment, location, and
24 address within thirty (30) days of such change.

25 17. COMPLIANCE WITH REQUIRED CONTINUING MEDICAL EDUCATION
26 Respondent shall submit satisfactory proof biennially to the BPM of compliance with the
27 requirement to complete fifty hours of approved continuing medical education, and meet
28 continuing competence requirements for re-licensure during each two (2) year renewal period.

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DATED:

DATED:

Dated:

STIPULATED SETTLEMENT (1B-2008-192098)

Exhibit A

First Amended Accusation No. 1B-2008-192098

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 28 2010
BY Chloe B. [Signature] ANALYST

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6 Attorneys for Complainant
7
8

9
10 BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

Case No. : 1B-2008-192098

13 RANDOLPH NORDYKE, D.P.M.

OAH No. 2010020525

14 4080 Loma Vista Road, Suite D
Ventura, California 93003

FIRST AMENDED ACCUSATION

15 Podiatric Medicine Certificate No. E4245,

16
17 Respondent.

18 Complainant alleges:

19 PARTIES

20 1. James Rathlesberger (Complainant) brings this Accusation solely in his
21 official capacity as the Executive Officer of the Board of Podiatric Medicine, Department of
22 Consumer Affairs (Board).

23 2. On or about December 14, 1999, the Board issued Podiatric Medicine
24 Certificate Number E4245 to Randolph Nordyke (Respondent). The Podiatric Medicine
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will
26 expire on October 31, 2011, unless renewed.

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1 appropriate for that negligent diagnosis of the patient shall constitute a single negligent
2 act.

3 "(2) When the standard of care requires a change in the diagnosis, act, or
4 omission that constitutes the negligent act described in paragraph (1), including, but not
5 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's
6 conduct departs from the applicable standard of care, each departure constitutes a separate
7 and distinct breach of the standard of care.

8 "(d) Incompetence.

9 "..."

10 7. Section 2266 of the Code states: "The failure of a physician and surgeon to
11 maintain adequate and accurate records relating to the provision of services to their patients
12 constitutes unprofessional conduct."

13 8. Sections 2497.5 and 125.3 of the Code provide, in pertinent part, that the
14 Board may request the administrative law judge to direct a licentiate found to have committed a
15 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
16 investigation and enforcement of the case.

17 CAUSES FOR DISCIPLINE

18 9. Respondent is subject to discipline as a result of his care and treatment of
19 two patients: J.B. and G.L.

20 Patient J.B.

21 FIRST CAUSE FOR DISCIPLINE

22 (Gross Negligence)

23 10 Respondent is subject to disciplinary action under section 2234,
24 subdivision (b) of the Code for his care and treatment of patient J.B. The circumstances are as
25 follows:

26 11. On November 2, 2007 patient J.B. initially saw respondent complaining
27 of foot pain in order to discuss the possibility of cryosurgery, a type of surgical procedure which
28

1 freezes the nerves that provide sensation to the heel.¹ Respondent diagnosed patient with plantar
2 fasciitis (neurogenic); Equinus, Sinus Tarsitis. He recommended cryotherapy medical calcaneal
3 nerve treatment, plantar medial tubercle, sinus tarsi, and injection to the lateral side of the
4 peroneals. On November 2, 2007 J.B. underwent the cryosurgical procedure. Respondent's
5 operative report lists that the following medications were injected into patient: 2% Lidocaine and
6 .5 % Marcaine to the medial and lateral calcaneal nerves, and .5 cc Kenalog 40 and .5 cc 4%
7 Alcohol in Marcaine to each area. The last line reads, "She was to follow up next week."

8 12. During the cryosurgery procedure an unlicensed staff member held the
9 cryosurgery probe in J.B.'s foot while Respondent left the room.

10 13. Having an unlicensed staff member assistant hold the probe represents an
11 extreme departure from the standard of care. Accordingly, Respondent is subject to discipline.

12 SECOND CAUSE FOR DISCIPLINE

13 (Repeated Negligent Acts)

14 14. Complainant repeats paragraphs 10 through 13 above as if fully
15 incorporated herein. Respondent is subject to disciplinary action under section 2234, subdivision
16 (c) of the Code for committing repeated negligent acts.

17 15. Respondent failed to obtain from J.B. a signed informed consent form
18 prior to performing the cryosurgery surgical procedure. This failure represents a simple departure
19 from the standard of care.

20 16. Respondent also failed to list the surgeon, indications for the procedure or
21 the diagnosis in his operative report. This failure represents a simple departure from the standard
22 of care.

23 17. Further, Respondent failed to sign the report. Such failure represents a
24 simple departure from the standard of care. As a result Respondent is subject to discipline.

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28 1. <http://www.podiatrytoday.com/article/7883> ("Case Studies in Cryosurgery for Heel Pain") retrieved December 22, 2009.

1 THIRD CAUSE FOR DISCIPLINE

2 (Failure to Maintain Adequate and Accurate Medical Records 2266)

3 18. Complainant repeats paragraphs 10 through 17 above as if fully
4 incorporated herein.

5 19. Respondent failed to maintain adequate and accurate medical records with
6 regards to his treatment of J.B. and his performance of surgery on J.B in violation of Code
7 Section 2266.

8 Patient G.L.

9 FOURTH CAUSE FOR DISCIPLINE

10 (Repeated Negligent Acts)

11 20. Respondent is also subject to disciplinary action under section 2234,
12 subdivision (c) of the Code for committing repeated negligent acts in his care and treatment of
13 patient G.L. The facts and circumstances of this matter are as follows:

14 21. On December 10, 2007, patient G.L. presented with plantar warts and
15 Respondent treated the patient with debridement and Cantherone. G.L. continued to complain of
16 lateral foot pain. Respondent ordered X-rays which revealed no fracture. On June 3, 2008,
17 Respondent examined G.L. Respondent indicated that he suspected that G.L. suffered from
18 periostitis as opposed to a stress fracture. G.L. was placed into Unna boot and cam walker.
19 Respondent performed an injection but did not identify the medications he injected into G.L in
20 his report. On June 12, 2008, G.L. returned and complained that there was no improvement to his
21 left foot, and he had pain in sinus tarsi. He again injected G.L.'s foot but did not indicate the
22 medication he injected. At his June 26, 2008 appointment G.L. was concerned that the skin was
23 either infected or dying. Respondent recommended that G.L. undergo a second opinion.
24 Respondent ordered an MRI and commented as follows: "MRI ordered to alleviate some of the
25 spheres of which I told him I do not think that there is any long time sequelae and he should be
26 fine to get back to his activities." Respondent felt that G.L. suffered from mild eczema. G.L.
27 underwent an MRI at Grossman Imaging Center on July 1, 2008 and no abnormality was noted.
28 On July 10, 2008, G.L. brought in an anatomical chart to show Respondent the anatomy and help

1 with his diagnosis. Respondent told G.L. that the areas G.L. questioned as problematic were not
2 symptomatic. Respondent suspected possible tendinitis and recommended that G.L. take Motrin
3 at 800 mg.

4 22. Soon after this July 10, 2008 appointment Respondent discharged G.L. from
5 his care because G.L. was rude to his staff and difficult to deal with, according to Respondent. G.L.
6 subsequently, without Respondent's assistance, treated with another podiatrist for his foot pain.

7 23. Respondent failed to perform and document a basic history and physical
8 examination of G.L. Such failure represents a simple departure from the standard of care.

9 24. Respondent also failed to initial or sign each entry in the G.L.'s record
10 verifying its accuracy from the transcriptionist. Such failure represents a simple departure from the
11 standard of care.

12 25. Furthermore on two occasions Respondent's notes reflect that an injection was
13 performed on G.L. but fails to note the medication used. Such failure represents a simple departure
14 from the standard of care.

15 26. In addition, Respondent failed to document in his chart record that he had sent
16 a letter to G.L. discharging him from his care. Such failure represents a simple departure from the
17 standard of care.

18 FIFTH CAUSE FOR DISCIPLINE

19 (Failure to Maintain Adequate and Accurate Medical Records)

20 27. Complainant incorporates paragraphs 19 through 26 as if fully contained.
21 herein.

22 28. Respondent is subject to disciplinary action under section 2266
23 accordingly for failing to keep adequate and accurate medical records in his care and treatment of
24 patient G.L.
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1 PRAYER

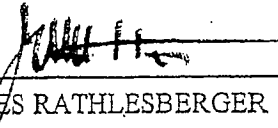
2 WHEREFORE, Complainant requests that a hearing be held on the matters
3 herein alleged, and that following the hearing, the Board of Podiatric Medicine issue a decision:

4 1. Revoking or suspending Podiatric Medicine Certificate Number E4245,
5 issued to Randolph Nordyke;

6 2. Ordering him to pay the Board of Podiatric Medicine the reasonable costs
7 of the investigation and enforcement of this case, pursuant to Business and Professions Code
8 section 2497.5;

9 3. Taking such other and further action as deemed necessary and proper.
10

11 DATED: April 28, 2010

12 
13 JAMES RATHLESBERGER
14 Executive Officer
15 Board of Podiatric Medicine
16 Department of Consumer Affairs
17 State of California
18 Complainant
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